

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MANUEL PHILLIP RIOS,

Plaintiff,

vs.

No. CV 19-01097 RB/KRS

CURRY COUNTY DETENTION CENTER,

Defendant.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court *sua sponte* under Fed. R. Civ. P. 41(b) on the handwritten complaint (Doc. 1) filed by Plaintiff Manuel Phillip Rios. The Court will dismiss the Complaint without prejudice for failure to comply with Court orders, statutes, and rules, and failure to prosecute.

Mr. Rios filed this civil rights proceeding under 42 U.S.C. § 1983. (*Id.*) The Complaint was not in proper form for a civil rights complaint. (*Id.*; Doc. 2 at 1.) Mr. Rios also did not pay the filing fee or submit an application to proceed without prepayment of fees or costs pursuant to 28 U.S.C. § 1915. On December 2, 2019, the Court ordered Mr. Rios to cure these deficiencies within 30 days by filing a complaint in proper form and either paying the filing fee or submitting an application to proceed *in forma pauperis*. (Doc. 2.) The Order advised him that, if he failed to cure the deficiencies within the 30-day time period, the Court could dismiss this proceeding without further notice. (*Id.* at 2.) The Court also sent Mr. Rios the forms for submitting a § 1983 complaint and an application under § 1915. (*Id.*) More than 30 days elapsed after entry of the Court's Order to Cure Deficiencies and Mr. Rios did not submit a complaint in proper form, pay the filing fee,


submit an application to proceed under § 1915, or otherwise respond to the Court's December 2, 2019 Order.

As a result, on May 5, 2020, the Court entered an Order to Show Cause. (Doc. 4.) The Order directed Mr. Rios to submit a complaint in proper form, pay the filing fee, submit an application to proceed *in forma pauperis*, or show cause why the case should not be dismissed for failure to comply with the December 2, 2019 Order. (*Id.*) The Court set a deadline of 30 days for him to comply with the Order to Show Cause. (Doc. 4 at 2). More than 30 days has elapsed and Mr. Rios did not file a response to the May 5, 2020 Order. He has not shown cause and has not communicated with the Court since entry of the May 5, 2020 Order.

Pro se litigants are required to follow the federal rules of procedure and simple, nonburdensome local rules. *See Bradenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980). The Court may dismiss an action under Federal Rule of Civil Procedure 41(b) for failure to prosecute, to comply with statutes or rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n.3 (10th Cir. 2003).

Mr. Rios has failed to comply with the Court's two prior orders, failed to comply with statutory provisions, including 28 U.S.C. § 1915, failed to comply with Federal Rules of Civil Procedure 8 and 11, and failed to prosecute this action. The Court may dismiss this action under Rule 41(b) for failure to prosecute, to comply with the rules of civil procedure, to comply with statutes, and to comply with court orders. *Olsen*, 333 F.3d at 1204, n.3. The Court will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with statutes, rules, and Court Orders and failure to prosecute this proceeding.

IT IS ORDERED that the Complaint (Doc. 1) filed by Plaintiff Manuel Phillip Rios is **DISMISSED** without prejudice under Fed. R. Civ. P. 41(b) for failure to comply with rules, statutes, and the Court's Orders, and failure to prosecute.



ROBERT C. BRACK
SENIOR U.S. DISTRICT JUDGE